Unabomber

GOVERNMENT'S SENTENCING MEMORANDUM

May 4, 1998

PAUL L. SEAVE
United States Attorney
ROBERT J. CLEARY
STEPHEN P. FRECCERO
BERNARD F. HUBLEY
R. STEVEN LAPHAM
J. DOUGLAS WILSON
Special Attorneys to the
United States Attorney General

555 Capitol Mall
Sacramento, California 95814
Telephone: (916) 554-2700

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. THEODORE JOHN KACZYNSKI, Defendant.	CR. NO. S-96-0259 GEB GOVERNMENT'S SENTENCING MEMORANDUM DATE: May 4, 1998 TIME: 9:00 a.m. COURT: Hon. Garland E. Burrell

INTRODUCTION

On January 22, 1998, Kaczynski pled guilty to 13 federal bombing offenses resulting in the death of three men and serious injuries to two others. During his plea colloquy Kaczynski acknowledged responsibility

for a series of 16 bombings that occurred between May 25, 1978, and April 24, 1995, throughout the United States. Ex. l.

The plea agreement entered into by the parties calls for a sentence of life imprisonment without possibility of release and an order of restitution for the full loss caused by defendant's wrongful conduct. The offenses of conviction, as well as the applicable Sentencing Guideline provisions, require the imposition of mandatory sentences of life imprisonment.

Because this case was resolved by a plea bargain, the public and the defendant's victims continue to have a strong interest in having a full and accurate factual record in an open proceeding, so that the public may take full measure of the seriousness of the defendant's crimes and the harm they caused to the community. Therefore, notwithstanding the mandatory sentence, the United States files this memorandum to make clear that the defendant deserves the sentence that the Court is required to impose, to emphasize the harm that the defendant caused to victims and their families, and to dispel any notion that the defendant acted for any purpose other than satisfying his personal animosity. In addition, this memorandum provides a basis for the government's request that this Court make recommendations to the Bureau of Prisons regarding the terms and conditions of Kaczynski's confinement.

The seriousness of Kaczynski's crimes, his lack of remorse for his actions, and continuing threat he poses to the public, require that he be removed from society for the rest of his life. In addition, Kaczynski should be ordered to pay restitution to the survivors of his crimes in an amount commensurate with the harm he has inflicted on them, and should be ordered to disgorge any monies paid to him, or on his behalf, for writings, interviews or other information, as set forth in the plea agreement. See 18 U.S.C. § 3681(a). Finally, this Court should recommend that the Bureau of Prisons incarcerate Kaczynski in a maximum security facility so that his activities can be monitored to prevent any future acts of vicience or intimidation. See 18 U.S.C. § 3621(b) (4) (B).

A. THE HARM WROUGHT BY KACZYNSKI

Kaczynski stands convicted of intentionally taking the lives of three men and grievously wounding two others. In imposing judgment, this Court should consider that "just as the murderer should be considered an individual, so too the victim is an individual whose death represents a unique loss to society and in particular to his family." Payne v. Tennessee 501 U.S. 808, 825 (1991). Moreover, "[t]he affront to humanity of [the] brutal murder[s] such as [the defendant] committed is not limited to its impact on the victim or victims; a victim's community is also injured, and in particular the victim's family suffers shock and grief of a kind difficult to imagine for those who have not shared a similar loss." Booth v. Maryland, 482 U.S. 496, 515 (1987) (dissenting opinion).

Those who have been left to bear witness to Kaczynski's actions may choose to address the Court, as is their right under Fed. R. Crim. P. 32(c) (3) (E) . We are simply presenting the Court with a quick glimpse of the 1i[ves] that [Kaczynski] chose to extinguish." Payne, 501 U.S. at 830

(concurring opinion), quoting Mills v. Maryland, 486 U.S. 367, 397 (1988) (dissenting opinion).

Gilbert Murray

Gilbert Murray was a Marine Corps veteran of the Vietnam War and a graduate of the University of California, Berkeley. A lifelong forester, he was the president of the California Forestry Association when, on April 24, 1995, he was killed at age 46 by a package bomb sent to his office by Kaczynski. The bomb so badly destroyed Gil Murray's body, that his family was allowed only to see and touch his feet and legs, below the knees, as a final farewell.

Gilbert Murray left behind a wife, two sons, a family who loved him, and many friends, colleagues, and co-workers. His wife, Connie, was introduced to Gil by her best friend, Jan Tuck, Gil's sister, when she was 16 years old. Connie and Gil began dating a few months after they met. The following year, Gil enlisted in the Aarine Corps, and the two were married when Gil returned from his tour of duty in Vietnam. According to his wife, Connie, Gil "was in love with this Earth" and felt that he had been entrusted with a small patch of it to safeguard and protect. He was known as a voice of calm and reason in a highly contentious field and a man who worked hard to build bridges between differing camps. Above all, he was a dedicated father and husband, a man who "treasured" his family.

Together Connie and Gil raised two sons, Wil and Gib. Wil was 18 at the time of Gil's murder; Gib was just two weeks past his 16th birthday. Gil was always active in his sons' lives. He taught them to ski at an earlier age, watched and coached them in athletic leagues, and when they were in High School, went to their basketball, baseball and football games, even re-scheduling meetings to attend. At Gil's funeral, Wil told the congregation that his father was "the greatest man I ever met. He loved my mom, my brother and me more than life itself. He was always there for us. We always came first." For Connie Murray, her deepest regret comes from the realization that each of her sons will never know their father on an equal footing, as one adult to another.

Shortly before Gil Murray's death, his son Wil had been accepted to Cornell University where he had been recruited for the football team. There was much discussion in the family over whether they could afford to send their son to an Ivy League school which did not offer athletic scholarships. On the Sunday before Gil died, the Murray family met and decided that they would find a way to finance the education. One of the last images that Connie had of her husband was his throwing out all the catalogues for other schools that had accepted Wil. Gil was murdered the next day. Left without the family's provider, and emotionally unable to be far away from home at such a difficult time, Wil did not attend Cornell.

Thomas Mosser

Thomas Mosser was a Navy Veteran of the Vietnam war and worked for

the public relations firm of Burson-Marsteller, for 25 years. He had recently been promoted to general manager of the parent company, Young and Rubicam, Inc., and had been away on a business trip. On December 9, 1994, he returned home to his family in New Jersey. Earlier that day, the postman delivered the package that had been mailed to him by Kaczynski. Thomas Mosser's wife, Susan, brought the package inside the house and placed it on a table by the foont door. The package lay unopened overnight in the Mosser home only a few feet from where Thomas' daughters played with their friends.

The following day, December 10, was meant to be a special day for the Mosser household. It was the unofficial commencement of the holiday season, a time when Thomas devoted all of his time to his family, and the day when the family had planned to go out together to buy a Christmas tree. That morning, Thomas took the mail that had accumulated during his trip, including the package sent to him by Kaczynski, into the kitchen to open. His wife and 15-month-old daughter, Kelly, joined him, while another daughter, Kim, slept in her room nearby. Seconds before Thomas opened the package, Kelly scurried out of the kitchen and Susan followed her. Thomas opened the package; the ensuing blast drove shrapnel into his body, leaving a gaping home in his head, opening up his body, and piercing his organs with nails. He died at age 50, on the floor of his own home, his wife at his side trying in vain to aid and comfort him.

Thomas Mosser left behind a wife, a son, three daughters, a family that loved him, and many friends, colleagues, and co-workers. The Christmas season is always a painful reminder of their loss. Last year, Kelly, who had only been 15 months old when her father was murdered, returned from Sunday school with a question for her mother. "Is God coming back from heaven?" she asked. When told God would indeed return, Kelly asked "Could he bring Daddy back with him?"

Hugh Scrutton

Hugh Scrutton was a native of Sacramento and a graduate of the University of California, Davis. He had traveled the world, devoted time to art, literature, and gardening, and at age 38 was running his own comouter rental business In Sacramento. Around noontime on December 1, 1985, he stepped out of his business and walked into the parking lot behind his store. There he stopped to try and pick what looked like a wooden plank with nails protruding from it laying on the ground. In reality, the object was a bomb that Kaczynski had disguised and planted outside his store. Hugh Scrutton's simple act of courtesy, trying to remove what looked like a potential hazard to others, cost him his life. Kaczynski had rigged the concealed bomb to detonate when it was moved, and when Hugh started to lift the wood, the bomb exploded severing his right hand and driving shrapnel deep into his heart. He died at age 38, in the parking lot of the business he had only recently started, with a co-worker and a caring passerby trying desperately to save him.

Friends recall Hugh as a man who embraced life, a gentle man with a sense humor who had traveled around the world, climbed mountains, and studied languages. He cared about politics, was "fair and kind" in

business, and was remembered as "straightforward, honest, and sincere." He left behind his mother, sister, family members, a girlfriend who loved him dearly, and a circle of friends and colleagues who respected and cared for him.

The survivors

Other individuals narrowly survived Kaczynski's attacks. Charles Epstein, a professor of pediatrics and a renowned researcher in prenatal disorders, was maimed and injured when, in the quiet of his family home, he opened the carefully disguised package bomb that Kaczynski had mailed to him. A husband and father, accomplished musician, as well as a physician who has dedicated his life to healIng others, Dr. Epstein suffered permanent injuries to his hand, arm, face, and hearing. Dr. Epstein underwent weeks of emergency and reconstructive surgery, as well as medical treatment that continues to this day.

David Gelernter, a professor of computer science, was maimed and injured in his office at Yale University, when he too opened a package bomb sent to him by Kaczynski. Dr. Gelernter narrowly escaped death from the explosion, surviving only because he managed to stagger down five flights of steps and across a street to a nearby medical clinic where he was rushed to the trauma unit of a local hospital. A husband and father, as well as a noted teacher and writer, Dr. Gelernter suffered permanent injuries to his hand, arm, body, and sight. Dr. Gelernter underwent weeks of emergency and reconstructive surgery, as well as medical treatment that continues to this day.

Numerous other individuals were injured by Kaczynski's bombs. Gary Wright was injured by the bomb Kaczynski planted in the parking lot of a Salt Lake City computer store. He suffered lacerations and puncture wounds to his face, hands, arms, shoulder, and legs, and underwent surgery to remove shrapnel. Nicklaus Suino, an assistant to Professor James McConnell at the University of Michigan, was hospitalized when he opened the package bomb Kaczynski mailed to McConnell. John Hauser, then an Air Force Captain and graduate student at U.C. Berkeley, was seriously wounded by a bomb Kaczynski planted in a university computer room. Dr. Hauser suffered permanent injuries, ending his career as an Air Force pilot and his dream of becoming an astronaut, and underwent weeks of surgery to repair the damage from the blast. Diogenes Angelakos, who died last year from cancer, was a distinguished professor at U.C. Berkeley when he was injured by a bomb Kaczynski planted in a break room on the U.C. Berkeley campus. He was hospitalized and underwent surgery, suffering permanent injuries to his hand. Janet Smith was injured when she opened a package bomb Kaczynski mailed to the professor she worked for. She was hospitalized and underwent surgery for her injuries. Percy Wood was the president of United Airlines when he was injured in his family home by a book bomb Kaczynski mailed to him. He was hospitalized and underwent surgery for injuries to his hand, legs, and face. Eighteen passengers and crew members were treated for smoke inhalation when the flight of their passenger airliner was aborted by a fire started by one of Kaczynski's bombs in the cargo compartment. John G. Harris was a student at Northwestern University when he was injured by a

disguised bomb placed in a university work room by Kaczynski. Officer Terry Marker was injured while examining the contents of a concealed bomb Kaczynski had left in a University campus parking lot.

Many people were placed directly in harm's way by Kaczynski's bombs. Only chance prevented the death and injury of many of the victims' family members and co-workers, such as the wife and daughters of Thomas Mosser and Gilbert Murray's colleagues at the California Forestry Association. Many of Kaczynski's bombs were left in heavily trafficked areas -- the parking lot behind Hugh Scrutton's store, the student workrooms at Berkeley and Northwestern -- and easily could have killed or injured many others.

The harm Kaczynski brought about is not limited to the physical injuries he inflicted. By his actions, Kaczynski forced family members and co-workers to witness the slaying or wounding of loved ones, friends, and colleagues. In addition, while hiding behind an alias, Kaczynski intimidated individuals and the public with letters, threatening two noted scholars for pursuing academic research, taunting one of the men he had maimed, bringing the nation's air traffic to standstill on a holiday weekend by a threat to bring down a jetliner, and coercing newspapers into publishing his turgid theories on society's shortcomings. His acts of terrorism deprived countless individuals of their sense of security in their homes, workplaces, and communities.

B. KACZYNSKI'S CULPABILITY

"Deeply ingrained in our legal tradition is the idea that the more purposeful is the criminal conduct, the more serious is the offense, and, therefore, the more severely it ought to be punished." Tison v. Arizona, 481 U.S. 137, 156 (1986). The purposefulness of Kaczynski's conduct is evident from the circumstances of the crimes themselves. Each offense entailed considerable preparation and planning, from the design and construction of the homemade bombs to their clandestine implementation. And every step in the commission of these offenses allowed substantial opportunity for reflection on tne consequences. That the crimes continued unabated over the course of nearly two decades should dispel any uncertainty as to their deliberate nature.

In addition to what we may rightfully infer from the cruel details of these crimes, Kaczynski's own writings provide a stark account, in his own words, of his purposes and intentions. Thousands of pages of Kaczynski's handwritten and typed documents were found during the April 1996 search of his cabin; the documents include Kaczynski's self-styled "autobiography" chronicling his life to the age of 27, a daily journal for the days thereafter, and numerous handwritten entries and notes detailing plans for the bombings, the construction and placement of bombs, and Kaczynski's own reactions to the aftermath of his crimes. The earliest entry in these writings is 1969 and the latest is dated February 1996. Combined, these writings provide a detailed picture of Kaczynski's life and his motivation for becoming a serial killer.

Kaczynski killed out of hatred

In June of 1995, late in his bombing career, Kaczynski sent a manuscript (which came to be known as the "Unabom Manifesto") to newspapers under the alias "FC" espousing an ideological basis for his crimes. He claimed that he "had to kill people" to get a message before the public" that technology was destroying mankind. Ex. 2. While Kaczynski adopted the pretense that he was killing for the greater good of society, two points are clear from the writings seized from his home. First, his desire to kill preceded by several years any serious concerns about technology. Second, he wanted to kill not out of some altruistic sense that he would thereby benefit society, but, in his own words, out of "personal revenge" and without "any kind of philosophical or moralistic justification." Ex. 3.

Kaczynski's writings contain extensive meditations on his hatred of people, his ideology and motivations, and his intent to kill his victims. In his autobiography Kaczynski recounts that he first formed a desire to kill while still a graduate student at the University of Michigan in 1966, years before he made his way to Montana and adopted his isolated lifestyle. He immediately began to plan how he would murder: "'My first thought was to kill somebody I hated and then kill myself before the cops could get me. Ex. 4. He quickly rejected this plan, however, in favor of one that would allow him to commit multiple murders and spare his own life:

> But, since I now had new hope, I was not ready to relinquish life so easily. So I thought, "I will kill, but I will make at least some effort to avoid detection, so that I can kill again."

Id. According to his own writings, Kaczynski's decision to live a wilderness lifestyle was made in part to further his murderous plans:

> Then I thought, "Well, as long as I am going to throw everything up anyway, instead of having to shoot it out with the cops or something,. . . I will go up to Canada, take off into the woods with a rifle, and try to live off the country. If that doesn't work out, and if I can get back to civilization before I starve, then I will come back here and kill someone I hate."

Id.

Over the ensuing years, Kaczynski came to despise many people, including those who interfered with the solitude he craved or came to represent for him certain aspects of modern technological and industrial society. Thus, his journals are filled with expressions of hatred often expressed in terms of some ill-defined need for "revenge" and plans to injure a varied group of individuals, from campers and snowmobilers who found their way into the national forest near his home, to a woman who had spurned his advances. In describing this abundant hatred, Kaczynski wrote: "I often had fantasies of killing the kind of people whom I hated (e.g. government officials, police, computer scientists, behavioral

scientists, the rowdy type of college students who left their piles of beer-cans in the Arboretum, etc., etc., etc.) and I had high hopes of eventually committing such crimes." Ex. 5.

Kaczynski's culpability lies in his decision to act on his "fantasies of killing." For Kaczynski, violence was never the result of momentary rage or a response to provocation; rather it was the culmination of a plan worked out over a number of years. He described his motivation as "not hot rage, but a cold determination to get my revenge" (Ex.6) and often wrote of his resolve to act on is hatred:

> Thus, when I had a fantasy of revenge, I had very little comfort from it, because I was all too clearly aware that I had had many previous fantasies of revenge, and nothing had ever come of any of them. This was very frustrating and humiliating. Therefore I became more and more determined that some day I would actually take revenge on some of the people that I hated.

Ex. 7. And while Kaczynski wrote extensively on a need for revenge, he was less articulate in explaining what he was seeking revenge for. Instead, his writings simply reveal that his hatred extended to virtually anyone who irritated him or represented some aspect of society he disagreed with. Kaczynski did, however, give considerable thought to how he would exact a plan of revenge, and was clear-eyed enough to admit (at least to himself) that he was not acting for anyone's gratification but his own. In April, 1971, beiore he embarked on his serial bombing campaign, Kaczynski recorded the following in his journal:

> My motive for doing what I am going to do is simply personal revenge. I do not expect to accomplish anything by it. Of course, if my crime (and my reasons for committing it) gets any public attention, it may help to stimulate public interest in the technology question and thereby improve the chances of stopping technology before it is too late; but on the other hand most people will probably be repelled by my crime, and the opponents of freedom may use it as a weapon to support their arguments for control over human behavior. I have no way of knowing whether my action will do more good than harm. I certainly don't claim to be an altruist or to be acting for the "good" (whatever that is) of the human race. I act merely from a desire for revenge.

Throughout his furtive journal entries Kaczynski conceded that his motivation to kill grew out of a "personal grievance" against society, bereft of any genuine belief that his actions would lessen what he viewed to be the negative impact of technology on others. Indeed, he noted that he would not plan his crimes and "take such risks from a pure desire to benefit my fellow man. Ex. 9. Even the causes Kaczynski later extolled in his manuscript, such as the preservation of the wilderness, he at times

ridiculed in his private entries:

> I believe in nothing ... I don't even believe in the cult of nature-worshipers or wilderness-worshipers. (I am perfectly ready to litter in parts of the woods that are of no use to me -- I often throw cans in logged-over areas or in places much frequented by people; I don't find wilderness particularly healthy physically; I don't hesitate to poach.)

Ex. 10.

Kaczynski seems to have prided himself in acting outside moral boundaries. He boasted that from an early age he had "never had any interest in or respect for morality, ethics, or anything of the sort." Ex. 11. Indeed, Kaczynski bragged in his autobiography:

> The fact that I was able to admit to myself that there was no logical justification for morality illustrates a very important trait of mine ... I have much less tendency to self-deception than most people. ... Thus, I tended to feel that I was a particularly important person and superior to most of the rest of the human race. ... It just came to me as naturally as breathing to feel that I was someone special.

Ex. 12.

Kaczynski's journals also reflect that he worked at overcoming inhibitions against committing crimes, striving to develop what he called "the courage to behave irresponsibly." Ex. 4. Thus, in a journal entry dated December 1972 he wrote:

> About a year and a half ago, I planned to murder a scientist as a means of revenge against organized society in general and the technological establishment in particular. Unfortunately, I chickened out. I couldn't work up the nerve to do it. The experience showed me that propaganda and indoctrination have a much stronger hold on me than I realized. My plan was such that there was very little chance of my getting caught. I had no qualms before I tried to do it, and I thought I would have no difficulty. I had everything well prepared. But when I tried to take the final, irrevocable step, I found myself overwhelmed by an irrational, superstitious fear -- not a fear of anything specific, merely a vague but powerful fear of committing the act. I cannot attribute this to a rational fear of being caught. I made my preparations with extreme care, and I figured my chances of being caught were less than, say, my chances of being killed in an automobile accident within the next year. I am not in the least nervous when I get into my car. I can only attribute my fear to the constant flood of

> anticrime propaganda to which one is subjected ...

Ex. 13, 14.

As early as 1975, Kaczynski took the first tentative steps on his destructive path. In the summer of that year he engaged in various acts of vandalism, including putting sugar in the gas tanks of various vehicles and vandalizing trailers and camps in Montana. In an act of a more deadly nature, he strung wire at neck height across roads frequented by motorcyclists. These acts continued over several summers and were a prelude to Kaczynski's coming bombing attacks.

Kaczynski's terrorism began in 1970. The history of his bombings reveal a patient and methodical killer. In May of that year he left Montana and returned to Chicago where he lived and worked for approximately a year. He noted in his journal that his biggest reason for returning to Chicago in 1978 was to "more safely attempt to murder a scientist, businessman, or the like" (Ex. 15) and explained:

> In Montana, if I went to the city to mail a bomb to some big shot, [a Montana neighbor] would doubtless remember that I rode [the] bus that day. In the anonymity of the big city I figured it would be much safer to buy materials for a bomb, and mail it.

Ex. 16. Around the same time, he wrote of his continuing determination to overcome any compunction against committing crimes and realize his "ambition":

> As a result of indoctrination since childhood, I had strong inhibitions against doing these things, and it was only at the cost of great effort that I overcame the inhibitions. I think that perhaps I could now kill someone (and I don't mean just set a booby trap having only a fractional chance of success) under circumstances where there was very little chance of getting caught ... My ambition is to kill a scientist, big businessman, government official, or the like. I would also like to kill a Communist.

Ex. 3, 17.

Kaczynski's writings track his progress in realizing his "ambition." They also reflect his appreciation for the gravity and unlawfulness of his conduct. For example, Kaczynski classified many of his writings by their incriminating nature, and left catalogues designating which writings were the most damning, designating some to be burned and others to be buried. Ex. 18. These entries illustrate how well he grasped the legal significance of his actions, as when he noted that that certain journal passages detailed events "past [the] statute of limitations." Ex. 19. They also reveal his

concern for his public image, with Kaczynski describing other passages as "embarrasing, not dangerous," or simply "very bad public relations." Id.

Kaczynski wrote some documents in code, others in Spanish, and concealed carbon copies of his later public "FC" missives deep within a storage container in the loft of his home. Many journal entries recount daily activities in plain English text and then revert to coded text, often in Spanish, as the subject matter moves to criminal acts. Some entries explicitly recognize the incriminating nature of the contents, as in this notebook entry wnere he wrote:

> [M]y motive for keeping these notes separate from the others is the obvious one. Some of my other notes contain hints of crime, but no actual accounts of felonies. But these notes must be very carefully kept from everyone's eyes. Kept secarate from the other notes they make a small compact packet1 easily concealed.

Ex. 20.

It is apparent that Kaczynski understood, indeed relished, the damage and suffering he was inflicting. In his journals he carefully monitored news accounts of his attacks and graphically rated their success, often by describing in detail the extent of the injuries his victims suffered. He also collected newspaper or magazine articles concerning his bombings, particularly those with photographs of bleeding victims or grieving family members, as souvenirs or trophies of his accomplishments. E.g. Ex. 21, 22.

Kaczynski has no remorse for his crimes

Kaczynski's own words demonstrate that he had neither remorse for his conduct nor empathy for his victims. When he planted his first bomb in May of 1978 at the University of Illinois, Chicago Circle Campus, he documented how he selected the name of the victim at random from the ranks of professors engaged in technical fields, and, when the bomb would not fit in a campus mailbox, left the bomb in a parking lot near a science building in the hope that a student in a scientific field would find the package and "blow his hands off or get killed." Ex. 15. In his journal he boasted: "I have not the least feeling of guilt about this -- on the contrary, I am proud of what I did. " Id.

In May 1979, just prior to returning to Montana, Kaczynski placed his second bomb on a table located in the Technological Institute at Northwestern University. A researcher was badly injured when he attempted to pick up the device, but not badly enough to suit Kaczynski. In a journal entry, Kaczynski stated:

> I figured the bomb was probably not powerful enough to kill (unless one of the lead pellets I put in it happened to penetrate

> a vital organ). But I had hoped that the victim would be blinded or have his hands blown off or be otherwise maimed ... maybe he would have had burns in the eyes if his glasses hadn't momentarily retarded the flow of hot gasses. Well, at least I put him in the hospital, which is better than nothing. But not enough to satisfy me .... I wish I knew how to get hold of some dynamite.

Ex. 23.

Kaczynski's writings chronicle his emotions during his subsecuent crimes. In November of 1979 Kaczynski tried to "blow up an airliner" and "kill a lot of business people," (Ex. 24) but failed. He noted in his journal that "unfortunately plane not destroyed, bomb too weak" and sought consolation in the thought that "at least it gave them a good scare." Ex. 25. Next, in June of 1980, after he mailed the bomb that injured Percy Wood in his own home, he recorded that "after complicated preparations I succeeded in injuring the pres of United A.L." Ex. 26. Around this time he noted in his journal:

> Guilty feelings? Yes, a little. Occasionally I have bad dreams in which the police are after me. Or in which I am threatened with punishment from some super natural source. Such as the devil. But these don't occur often you enuf (sic) to be a problem. I am definitely glad to have done what I have.

Kaczynski then returned his attention to universities, and in October of 1981 planted a firebomb at the University of Utah, but was disappointed with the result:

> last fall I attempted a bombing and spent nearly three hundred bucks just for travel expenses, motel, clothing for disguise, etc. aside from cost of materials for bomb. And then the thing failed to explode. Damn. This was the firebomb found in U. of Utah Business School outside door of room containing some computer stuff.

Ex. 20. In May of 1982, when a bomb he sent wounded Janet Smith, a professor' s secretary, he lamented:

> May about 1982 I sent a bomb to a computer expert named Patrick Fischer. His secretary opened it. One newspaper said she was in hospital? In good condition? With arm and chest cuts. Other newspaper said bomb drove fragments of wood into her flesh. But no indication that she was permanently disabled. Frustrating that I can't seem to mak[e] lethal bomb.

Ex. 29. A few months later he traveled to U.C. Berkeley and planted another firebomb, this time injuring Professor Diogenes Angelakos. Again Kaczynski registered disappointment:

> According to newspaper, vice chairman of computer sci. dept. picked it up. He was considered to be out of danger of losing any fingers, but would need further surgery for bone and tendon damage in hand. Apparently pipebomb went off but did not ignite gasoline. I dont understand it. Frustrated.

Kaczynski set no bombs for three years. His journals reflect that he used this sabbatical to experiment with more deadly bombs. His return was marked by renewed ferocity. In May of 1985 he set a bomb in the same building where he had injured Professor Angelakos. A graduate student, then Air Force Captain John Hauser, was seriously injured when the bomb exploded with such force that it left an exact imprint of his Air Force Academy ring embedded in the workshop wall. Kaczynski followed the news accounts closely, recording the descriptions of "blood all over the place" and Hauser's "mangled" arm. Ex. 31. While he confided to himself some unease over maimIng a "father of 2 kids" he later reflected that he "just got over it" and even "laughed at the idea of having any compunction about crippling an airplane pilot." Id.

Around the time that he placed this bomb, Kaczynski mailed a bomb to the Boeing Corporation in Auburn, Washington. Unbeknownst to Kaczynski, this bomb was successfully rendered safe by police after several employees had handled it. Kaczynski could only record his disappointment: "Outcome of Boeing bomb unknown ... Seems inexplicable it was designed and built with such care that malfunction seems highly improbable." Ex. 32. He sent the next bomb to a University of Michigan Professor James McConnell. When the bomb injured the Professor's assistant, Nicklaus Suino, Kaczynski noted only scientific detachment: "Only minor injuries to McConnlls (sic) assistant. Deflagrated, did not detonate. Must be either pipe was a little weak or loading density of explosi[v]e a shade too high at failure." Ex. 33.

Later that year, Kaczynski rejoiced when he killed his first victim. "Excellent ... humane way to eliminate somebody" and "very good results" (Ex. 34,35) was how he described his murder of Hugh Scrutton, who died in the parking lot of his Sacramento store when Kaczynski's bomb tore his hand from his body and drove shrapnel into his heart.

In February of 1987, Kaczynski placed the bomb that injured Gary Wright in Salt Lake City. Kaczynski noted that while the bomb detonated, the results "were not enough to satisfy" him. Ex. 36. Kaczynski was more concerned with the sketch of a suspect circulated after the bombing. He noted in his journals, "Description (several versions) ... The 'composite drawing' did not show any beard, although it did show a small moustache." Id.

Apparently alarmed by the possibility of an eyewitness, Kaczynski was silent for nearly six years. In his April 1995, letter to the New York

Times, Kaczynski explained these periods of apparent inactivity:

> Our early bombs were too ineffectual to attract much public attention or give encouragement to those who hate the system. We found by experience that gunpowder bombs, if small enough to be carried inconspicuously, were too feeble to do much damage, so we took a couple of years off to do some experimenting. We learned how to make pipe bombs that were powerful enough, and we used these in a couple of successful bombings as well as in some unsuccessful ones. Unfortunately we discovered that these bombs would not detonate consistently ...
>
> So we went back to work, and after a long period of experimentation we developed a type of bomb that does not require a pipe, but is set off by a detonating cap that consists of a chlorate explosive packed into a piece of small diameter copper tubing ... We used bombs of this type to blow up the genetic engineer Charles Epstein and the computer specialist David Gelernter.

Ex. 27, 38.

By 1993, Kaczynski no longer accepted the risk of detection involved in placing bombs, so he concentrated on designing and sending mail bombs. In June he traveled to Sacramento and mailed bombs to Dr. Epstein in Tiburon and Dr. Gelernter in New Haven. Though he critically injured both recipients, Kaczynski was only partially satisfied:

> I sent these devices during June, 1993. They detonated as they should have. The effect of both of them was adequate, but no more than adequate.

Ex. 39.

Kaczynski thereafter ensured that his next attacks were fatal. He modified his designs to improve fragmentation and inserted additional screws, paneling nails, and even bits of razor blades into the bombs to serve as enhanced shrapnel. In December of 1994 he traveled to San Francisco and mailed a package bomb to Thomas Mosser in New Jersey. Mosser opened the package in the kitchen of his home. The bomb detonated, spraying shrapnel with such force that nails penetrated walls and metal kitchen pans. Mosser died on the floor of his kitchen with his wife and children nearby. Kaczynski noted his satisfaction in his journal, recording that the bomb "gave a totally satisfactory result." Ex. 40. Kaczynski later bragged about his technical innovation in one of his letters to the newspapers:

> We did use a chlorate pipe bomb to blow up Thomas Mosser because we happened to have a piece of light-weight

> aluminum pipe that was just right for the job. The Gelernter and Epstein bombings were not fatal, but the Mosser bombing was fatal even though a smaller amount of explosive was used. We think this was because the type of fragmentation material that we used in the Mosser bombing is more effective ...

Ex. 41.

In April of 1995, Kaczynski sent a bomb addressed to William Dennison at the California Forestry Association (CFA) in Sacramento. On April 24, Gilbert Murray opened the package at the CFA and was killed by the blast and shrapnel. Several co-workers narrowly escaped harm as the force of the blast sent shrapnel and fragments through the walls of the building. In a later letter from "FC" to the New York Times, Kaczynski expressed no qualms about missing his mark at the CFA: "We have no regret about the fact that our bomb blew up the 'wrong' man, Gilbert Murray, instead or William N. Dennison, to whom it was addressed." Ex. 42.

Around this time Kaczynski also took to taunting victims, law enforcement, and the public in a series of letters. These letters were designed not only to instill fear, but also to thwart investigators. For example, in April of 1995 he sent a letter to one of his previous targets, David Gelernter, mocking him for having opened the package Kaczynski had sent him two years earlier:

> People with advanced degrees aren't as smart as they think they are. If you'd had any brains you would have realized that there are a lot of people out there who resent bitterly the way techno-nerds like you are changing the world and you wouldn't have been dumb enough to open an unexpected package from an unknown source.

Ex. 43. Kaczynski explained the subterfuge in his journal:

> In a letter say that, 'scientists consider themselves very intelligent because they have advanced diplomas (advanced degrees) but they are not as intelligent as they think because they opened those packages.' This will make it seem as though I have no advanced degree.

Ex. 44.

Kaczynski sent letters to Nobel laureates Phillip Sharp and Richard Roberts threatening them that "It would be beneficial to your health to stop your research in genetics." Ex. 45,46. He sent a letter to a newspaper threatening to blow up an airliner out of the Los Angeles International Airport. The threat paralyzed air travel until Kaczynski wrote another letter saying:

> Note. Since the public has a short memory we decided to play one last prank to remind them who we are. But no, we haven't tried to plant a bomb on an airliner (recently).

Ex. 47.

Kaczynski used fear to manipulate the public into considering his views. He threatened the public with "bombs much bigger" than any made before, offering to desist from further "terrorism" only if his manuscript was published in the newspapers. Ex. 48. At the request of law enforcement, the manuscript was published in September of 1995.

Kaczynski poses a future threat to society

Kaczynski's crimes were conceived and carried out with inventive cunning. Kaczynski crafted his bombs by hand, producing sophisticated lethal contraptions without the benefit of electricity or modern facilities. He experimented with different homemade explosive charges, often creating mixtures from household products, designed and perfected electrical initiating systems for bombs, and fashioned bomb components out of scrap materials. See e.g. Ex. 49-55. He tested prototypes and plotted the force and distance of fragments and shrapnel to measure their effective killing zones. Kaczynski contrived ways to deceive his unsuspecting targets, designing books that exploded upon opening, test equipment that detonated when lifted by the handle, and bombs disguised in packages fashioned to look like research papers.

Kaczynski also labored methodically on his bombs, combining patience with stealth and eluding detection for nearly twenty years. When assembling his bombs, he wore gloves and manually sanded all parts to remove fingerprints. Ex. 56-83. He carefully chose stamps for his mail bombs, checking to make sure they bore no indented writing, and even soaked his stamps in a home-made solution in the hopes of removing trace evidence. Ex. 84-87. He went as far as to insert false evidence into his bombs to misdirect investigators, placing human hair he collected from a public restroom in a bus station on tape used to construct the device. Ex. 88. He carefully sealed and weighed packages to determine the appropriate postage, thereby avoiding interactIon with postal clerks. He researched names to select victims and fictitious return addresses, charted bus schedules to plan his attacks, and wore disguises to purchase materials and mail bombs. Ex. 89. Kaczynski also made plans for flight in the event the authorities identified him, charting escape routes through the Montana wilderness and designating secret hiding places and burying food and ammunition on map locations disguised in a manner so that only he would recognize them.

And while Kaczynski had claimed in his 1995 letters to the press that he would forswear terrorism if his manuscript were published, it is clear he had no intention of halting the violence. Instead, at the time of his arrest in April of 1996, Kaczynski was preparing for more lethal attacks. When

agents searched his cabin they found all the materials necessary for the construction of severa1 more bombs. Kaczynski had stockpiled in excess of 40 pipes, many individually wrapped and bearing coded notations, and nearly 200 feet of the copper tubing of the type he had used in approximate 4" increments as detonators in many of his previous bombs. He also had chemicals arranged on shelves, some in raw form and others in individually marked containers mixed to the specifications of his explosive charges.

The array of materials Kaczynski had in inventory speaks volumes as to his future plans. He had 23 identical initiating devices (1) of the sort he had perfected over the years in other bombs, as well as a fully constructed pivot switch (2) of the same configuration that he had used in three of his last four bombs. He also had a number of timing devices, a rigged alarm clock, an anti-movement ball switch, spools of wire, reserves of solder, ammunition, and even specially designated nails and screws for use as shrapnel. His home also had his work bench with all the tools necessary for his craft, as well as a wide variety of books that included textbooks on chemistry and electrical circuitry, and even an FBI manual on fingerprinting.

The most disconcerting discovery during the search was that Kaczynski had already completed another bomb. It was, by any standard, a powerful weapon, fully-armed and virtually identical in design to that which killed Gilbert Murray. The weapon was intended to kill people, as the outside of the bomb cylinder was covered with a mosaic of individual lead squares, a trademark of an antipersonnel device, since the lead pellets create a lethal zone of some distance when the bomb is detonated. The device was disguised In a package with a label describing it as a "Newell Channel Reamer," a mechanical tool commonly used in the aircraft industry. The package was ready for delivery, lacking only an address.

1. An initiator is a bomb component that causes the explosive charge to ignite. See Government's Motion in Limine for Admission of Evidence Under Fed. R. Evid. 404 (B), filed on November 7, 1997, p. 12, n. 12.

2. A switch is a device that closes the electrical circuit in the comb, passing the charge from the batteries to the explosive powder, thereby initiating the explosion. See Government's Motion in Limine for Admission of Evidence Under Fed. R. Evid. 404 (B), filed on November 7, 1997, p. 6, n. 6.

Finally, as a chilling reminder of the purpose of all this material, Kaczynski kept handwritten lists of potential victims with their home or work addresses as well as maps of various cities with these locations circled. See e.g. Ex. 90.

From what can be discerned from the search of his home, it also appears that Kaczynski's weaponry was not limited exclusively to bombs. For example, agents discovered a completely homemade, operable handgun, as well as a corresponding written description of its creation and purpose, all of which further demonstrates the resourcefulness that Kaczynski was able to summon to further his murderous intent:

> a few days ago I finished making a twenty two caliber pistol. This took me a long time, for a year and a half, thereby preventing me from working on some other projects I would have liked to carry out. Gun works well and I get as much accuracy out of it as I'd expect for an inexperienced pistol shot like me. It is equipped with improvised silencer which does not work as well as I hoped. At a guess it cuts noise down to maybe one third. It is said that it is easy for machinist to make a gun, but of course I did not have machine tools, but only a few files, hacksaw blades, small vice, a rickety hand drill, etc. I took the barrel from an old pneumatic pistol. I made the other parts out of several metal pieces. Most of them come from the old abandoned cars near here. I needed to make the parts with enough precision but I made them well and I'm very satisfied. I want to use the gun as a homicide weapon.

Ex. 91.

Furthermore, while it is clear that Kaczynski plotted and carried out his crimes alone, he also contemplated recruiting others to join in his plans. Among the many documents found in his cabin were "how to" guides he had prepared -- a handwritten manual recounting step by step how to construct improvised bombs with detailed instructions on how to avoid detection by the FBI or police and a handwritten document entitled "How to Hit an Exxon Exec" detailing with chilling precision the step by step process one can undertake to send a package bomb to a corporate official. Ex.92. There were also copies of correspondence sent to other organizations, such as letters to radical environmental groups "Earth First!" and "Live Wild or Die", offering secret codes for communicating and seeking an audience for his "strategy for revolutionaries seeking to destroy the industrial system."

The history of Kaczynski's conduct demonstrates that he has both the capacity and willingness to dedicate years of his life to plan murders and elude detection. If released back into society, he would kill again.

C. SENTENCING RECOMMENDATION

1. Imposition of Mandatory Life Sentence

The nature and circumstances of the offenses justify the life sentence the Court is required to impose. Kaczynski's repeated crimes were the considered acts of a man who chose to repeatedly inflict violence and kill to gratify his own hatred. Furthermore "any sentencing authority must predict a convicted person's probable future conduct when it engages in the process of determining what punishment to impose." Jurek v. Texas, 428 U.S. 262, 275 (1976). Kaczynski's abiding hatred of everyone but himself, coupled with his lack of remorse for his conduct, gives no cause to believe he could ever rejoin society as anything other than a killer. Justice therefore requires that he spend the remainder of his days

imprisoned.

2. Restitution and Forfeiture

Pursuant to 18 U.S.C. § 3663 and the Plea Agreement in this case, the Court should order restitution to the individuals, and in the amounts, identified in the Presentence Investigation Report. In addition, in accordance with the plea agreement (p. 4, ¶ D.) and 18 U.S.C. § 3681, this Court should order that Kaczynski forfeit all or any part of proceeds received or to be received by him for writings, interviews, memorabilia or other information for restitution or other distribution to the victims of his crimes.

3. Recommendation to the Bureau of Prisons That Defendant Be Placed in a Maximum Security Institution

In light of Kaczynski's continuing desire to kill and his evident resourcefulness, there remains the threat that Kaczynski could continue his lethal preoccupation behind prison walls. See, e.g., United States v. Hamrick, 43 F.3d 877, 878-79 (4th Cir. 1994) (en banc) (while in federal prison, defendant built five improvised ombs" and later built and sent from state prison a bomb capable of producing "1000 degree fireball" to U.S. Attorney). Accordingly, pursuant to 18 U.S.C. § 3621 (b) (4) (B), the United States requests that in addition to imposing a sentence of life imprisonment without release, this Court recommend to the Bureau of Prisons that Kaczynski be incarcerated in a maximum security facility where he Can be closely monitored to prevent any future acts of violence or intimidation.

Respectfully submitted,

PAUL L. SEAVE
United States Attorney

By: (signature)
STEPHEN P. FRECCERO
ROBERT J. CLEARY
J. DOUGLAS WILSON
R. STEVEN LAPHAM
Special Attorneys to the
United States Attorney General

CERTIFICATE OF SERVICE

The undersigned hereby certities that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers.

That on April 28, 1998, she served a copy of the **GOVERNMENT'S SENTENCING MEMORANDUM** by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at

Sacramento, California, by depositing said envelope and contents in the inter-office mailbox at the Clerk's Office, Federal Building, Sacramento, California.
Addressee(s):

INTER-OFFICE MAIL AND BY FAX
Quin Denvir
Federal Defender

Judy Clarke
Executive Director of Federal Defenders
of Eastern Washington & Idaho
801 K Street, Suite 1024
20 Sacramento, CA 95814

10 North Post, Suite 700
Spokane, WA 99201

(signature)
SANDRA CALLAHAN
